



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0098; Notice 2]

Continental Tire the Americas, LLC, Grant of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Continental Tire the Americas, LLC (CTA), has determined that certain Continental Tire brand T-type spare tires do not fully comply with paragraph S4.3(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New Pneumatic and Certain Specialty Tires*. CTA has filed a report dated August 25, 2015 and amended on October 1, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-5930.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), CTA submitted a petition for an exemption from the notification and remedy requirements

of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on October 29, 2015 in the Federal Register (80 FR 66613). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0098."

**II. Tires Involved:** Affected are approximately 3,627 Continental Tire brand CST 17 size T125/70R17 98M temporary spare tires sold to General Motors and also in small quantities in the replacement market. These tires were manufactured between March 18, 2012 and April 11, 2015.

**III. Noncompliance:** CTA explains that the noncompliance is that the tire size designation markings on the sidewalls of the subject tires do not contain the tire type code designator symbol from The Tire and Rim Association yearbook as required by paragraph S4.3(a) of FMVSS No. 109. Specifically, the subject tire size reads "125/70R17 98M" but should read "T125/70R17 98M" indicating the tire is a spare tire and for temporary use.

**IV. Rule Text:** Paragraph S4.3(a) of FMVSS No. 109 requires in pertinent part:

S4.3 *Labeling Requirements*. Except as provided in S4.3.1 and S4.3.2 of this standard, each tire, except for those certified to comply with S5.5 of §571.139, shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 0.078 inches high, the information shown in paragraphs S4.3(a) through (g) of this standard. On at least one sidewall, the information shall be positioned in an area between the maximum section width and bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. ...

- (a) One size designation, except that equivalent inch and metric size designations may be used; ...

**V. Summary of CTA's Analyses:** CTA stated that the only missing marking on the sidewalls of the affected tires is the letter "T" as part of the size designation.

CTA also stated its belief that the omission of the tire size designation markings has no impact on the operational performance or durability of these tires or on the safety of vehicles on which these tires may be mounted and that the affected tires cannot be confused with normal P-metric or metric passenger tires for the following reasons:

1. Both sidewalls of the affected tires have permanently molded letters that are ½ inch tall with the words "TEMPORARY USE ONLY."
2. Both sidewalls of the affected tires have permanently molded letters and numerals that are ½ inch tall with the words "INFLATE TO 420KPA (60PSI)," as required by section S4.3.5 of FMVSS No. 109.

3. The affected tires are intended as spare tires for the Chevy Impala, which is equipped with four ground tires of size P235[/]55R17 98W. The ground tires are significantly different in width (approximately four inches wider) and in diameter (approximately three inches larger) than the subject spare tires.
4. The affected tires also have a starting tread depth of only 3/32 inch, whereas a typical P-metric or metric passenger tire has a much deeper tread depth of approximately 10/32 inch.

CTA also noted that they are not aware of any crashes, injuries, customer complaints or field reports associated with this noncompliance.

In addition, CTA informed NHTSA that it has corrected the mold at the manufacturing plant so that no additional tires will be manufactured with the subject noncompliance and that all remaining CTA inventory of the subject tires in their possession have been scrapped.

CTA also made reference to inconsequential noncompliance petitions that NHTSA previously granted concerning noncompliances that CTA believes are similar to the subject noncompliance.

In summation, CTA believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety,

and that its petition, to exempt CTA from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**NHTSA'S DECISION:**

*NHTSA's Analysis:* Labeling the tire size "125/70R17" instead of "T125/70R17," violates paragraph S4.3(a) of FMVSS No. 109 because the tire is labeled with an incomplete tire size designation for temporary use tires, also referred to as spare tires.

NHTSA bases its decision on several points. First, CTS labeled the subject tires on both sidewalls with the words "TEMPORARY USE ONLY" and "INFLATE TO 420KPA (60PSI)." The maximum pressure labeled on the subject tires correlates with the pressure specified for all temporary use tires in the TRA's tire publication. Together, these additional labels provide the user with the same information intended by the missing labels, and by spelling out the word TEMPORARY, provides that information in clear format. All other sidewall labels and safety information are correct.

Next, NHTSA agrees that the subject tires would not be confused with non-temporary tires used on vehicles for which the tires are intended because of the differences in geometry of the two types of tires. CTA indicated that the subject tires are

approximately four inches narrower and three inches smaller in diameter than the non-temporary tires that would be used on the vehicle for which the subject tires are also intended.

Finally, neither CTA nor NHTSA are aware of any crashes, injuries, customer complaints or field reports associated with the omitted labeling.

*NHTSA's Decision:* In consideration of the foregoing, NHTSA finds that CTA has met its burden of persuasion that the subject FMVSS No. 109 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, CTA's petition is hereby granted and CTA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that CTA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or

introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after CTA notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

---

Jeffrey M. Giuseppe, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

[FR Doc. 2016-08362 Filed: 4/11/2016 8:45 am; Publication Date: 4/12/2016]